## REMARKS

Applicants respectfully request reconsideration of the instant application in view of the foregoing amendments and the following remarks. Claims 1, 2, 3, 7, 8, 9, 30, 31, 34, 39, 40, 44 and 45 have been amended by this Response. Applicants submit that support for the amendments may be found throughout the originally filed specification, drawings, and claims, and that no new matter has been added by way of this Response. Claims 1-54 are currently pending.

### Rejections under 35 U.S.C. § 112

Claims 2-17, 22, 25-29, 31, 34-38, 40 and 44-51 have been rejected under 35 U.S.C. § 112, ¶ 2 as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner has alleged that these claims "relate to further limiting the 'applying a function' limitation of the independent claims," but that they are "unclear because they relate to applying a hash function to various other values that are not the address of the independent claims and do not say how this applying takes place." (September 11, 2008 Office Action, p. 2, § 5). Applicants respectfully traverse this basis of the Examiner's rejection and submit that the claims are clear and definite for at least the following reasons.

Applicants have previously argued that "[at] least one independent value used in determining a return address is the address requested from a user," and that "[t]o define a specific address the function may include more as provided by the open-ended 'comprising' language of, for example, rejected claim 2." (July 10, 2008 Response, p. 3, ¶ 1-2). In response, the pending rejection alleges, "[a]pplicant states that the value is dependent on both

the requested address and a hash of the user address; however claim 2 makes no mention of the requested address and therefore cannot require a dependency on both." (September 11, 2008 Office Action, p. 7, § 10). Applicants respectfully traverse this argument and submit that claim 2 recites, *inter alia*, "receiving a request from a user to obtain an address," and, "applying a function to said address." 35 U.S.C. § 112, ¶ 4 prescribes, "A claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers," which is independent claim 1 in the case of dependent claim 2. Furthermore, MPEP § 2111.03 prescribes, "[t]he transitional term 'comprising' … is inclusive or open-ended and does not exclude additional unrecited elements or method steps." Accordingly, Applicants submit that there is no inconsistency, lack of clarity, or indefiniteness in the claims at issue.

Furthermore, Applicants note that the Examiner's stated rationale for this rejection does not even appear to apply to many of the claims lumped in with this rejection. By way of example only, amended dependent claim 8 depends from independent claim 1 and recites, *inter alia*, "wherein applying said function further comprises changing said used one of said block of addresses over time." Applicants submit that the Examiner's stated concern that the claims are "unclear because they relate to applying a hash function to various other values that are not the address of the independent claims" does not apply to claim 8, nor to claims depending therefrom. Although of different scope than claim 8, Applicants further submit that claims 25, 34, and 44, as well as claims depending therefrom, are also not subject to the Examiner's stated rationale for rejection.

Although Applicants respectfully traverse the Examiner's rejection and submit that the claims in their original form are definite, Applicants have amended claims 2, 3 and 7-9 to provide clarification and expedite prosecution. For example, amended claim 2 recites, *inter alia*, " wherein said function further comprises hashing a user address."

Accordingly, for at least these reasons, Applicants submit that the claims are clear and definite and respectfully request reconsideration and withdrawal of this basis of the Examiner's rejection

**Rejections under 35 U.S.C. § 103**

Claims 1, 8-11, 13-21, 23-26, 28-30, 32-35, 37-39, 41-45 and 47-54 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Droms (Dynamic Host Configuration Protocol, March 1997; hereinafter, "Droms") in view of Liston (U.S. Patent Application No. 2004/0103314; hereinafter, "Liston"); and claims 2-7, 22, 31 and 40 under 35 U.S.C. 103(a) as allegedly being unpatentable over Droms and Liston in further view of Hasty et al. (U.S. Patent Application No. 2003/0179750; hereinafter, "Hasty"). Although Applicants respectfully traverse this rejection and submit that a *prima facie* case of obviousness has not been established and that the cited references, taken alone or in combination, do not discuss or render obvious all elements of the pending claims, Applicants have amended independent claims 1, 21, 30 and 39 to provide clarification and to better track current business practices. Amended independent claim 1 recites, *inter alia*,

> A method of detecting unauthorized access attempts to a network, comprising:
> ...
> generating a return address corresponding to output of a function applied to said address, said return address corresponding to a used one of a block of addresses;
> ...

Applicants submit that none of the cited references, taken alone or in combination, discuss or render obvious at least this element of independent claim 1, and that the pending rejection has not established a *prima facie* case of obviousness, for at least the following reasons.

MPEP § 706.02(j) prescribes that a rejection under 35 U.S.C. § 103 should set forth:

(i) the relevant teachings of the prior art relied upon,
(ii) the differences in the claim over the applied references,
(iii) the proposed modification of the applied references to arrive at the claimed subject matter, and
(iv) an explanation as to why the claimed invention would have been obvious to one of ordinary skill in the art at the time the invention was made.

Applicants submit that the rejections in the pending Office Action do not establish each of these requirements.

Applicants submit that, by over-generalizing cited references and not considering every element of the pending claims, the rejections in the September 11, 2008 Office Action do not establish at least either of the first two elements of a prima facie case of obviousness. By way of example only, Applicants submit that none of the cited references, taken alone or in combination, discuss or render obvious at least, "generating a return address corresponding to output of a function applied to said address, said return address corresponding to a used one of a block of addresses," as recited in amended independent claim 1. The pending rejection has alleged that "Droms discloses ... applying a function to said address to obtain a return address, said return address corresponding to a used on [sic] of a block of addresses ... (see section 3.1 number 2 where the function is the checking that the network address is not already in use)." Applicants respectfully traverse this argument and submit that the "check that the offered network address is not already in use" described in Droms is not analogous to "generating a return address corresponding to output of a function," recited in independent claim 1. The output of the "check" performed in Droms is a Boolean value corresponding to whether or not a selected address is in use, and does not form the basis of a generated return address. Accordingly, Applicants respectfully request reconsideration and

withdrawal of this basis of the Examiner's rejection. Should the Examiner disagree and maintain the rejection, Applicants respectfully request clarification as to how he believes Droms or any of the other cited references allegedly discuss "generating a return address corresponding to output of a function applied to said address, said return address corresponding to a used one of a block of addresses," as recited in independent claim 1.

Furthermore, Applicant submits that the rejections in the September 11, 2008 Office Action have not established why the claimed invention would have been obvious to one of ordinary skill in the art at the time the invention was made by failing to provide sufficient objective rationale for the proposed modification of the references, and by not providing a discussion of the level of ordinary skill in the art.

By way of example only, Applicants note that the pending rejection alleges "intrusion detection and countermeasures" as motivating the proposed modifications to the cited art with respect to independent claim 1 (September 11, 2008 Office Action, p. 4, ¶ 1). Applicants respectfully traverse this argument and submit that the pending rejection has applied impermissible hindsight in alleging a rationale for modifying the combined references that is overly general and provides no specific link between the references. The alleged rationale for the combination is a stated goal of Liston's system in itself (see, e.g., Liston, ¶ 0012: "a method and system for network intrusion prevention is provided"). Applicant respectfully submits that "intrusion detection and countermeasures" is not sufficient objective rationale to modify Droms based on Liston. The pending rejection has provided no indication of how the language cited from Liston points beyond itself to any other system, let alone to Droms' specific system. Similar rationales for modifying the cited art are provided throughout the pending rejection. Applicants further submit that, by merely citing to the reference as allegedly providing the rationale for the proposed modification, without providing further discussion or explanation as

to how the citation points to the proposed modification in light of the claim as a whole, the pending rejection has effectively dissected the claim and evaluated obviousness of the proposed modification in isolation instead of in relation to the claim as a whole (see MPEP § 2106 IIC). MPEP §2141 III states, *inter alia*, "The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious," and that, "there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." Applicants submit that the pending rejection has applied impermissible hindsight by not providing a "clear articulation of the reason(s)" for the proposed modifications of the cited art and by evaluating obviousness of the proposed modifications in isolation instead of in relation to the claim as a whole. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection. Should the Examiner disagree and maintain the rejection, Applicants respectfully request that he provide clarification as to how he believes the stated rationales for each proposed modification specifically point to a combination of each reference with each of the other references to allegedly result in the claim as a whole.

Applicants also submit that the pending rejection has provided no indication of the level of ordinary skill in the art. MPEP § 2141 (II)(C) states, "Any obviousness rejection should include, either explicitly or implicitly in view of the prior art applied, an indication of the level of ordinary skill." The pending rejection refers to, "a person of ordinary skill in the art," (see, e.g., September 11, 2008 Office Action, p. 4, ¶ 1) but has provided no indication or discussion of which art is described or the level of ordinary skill associated therewith. The rejection's reference to "the art" is overly general and, consequently, does not provide a specific indication of the level of ordinary skill pertinent to the claimed subject matter. MPEP § 2141.03 (III) states, "The importance of resolving the level of ordinary skill in the art lies in the necessity of maintaining objectivity in the obviousness inquiry." Applicant submits that

impermissible hindsight has been applied in asserting obviousness of the various claim elements without providing an indication of the level of ordinary skill. As such, Applicants respectfully request that, if the Examiner maintains this rejection, the Examiner discuss the level of ordinary skill in the art at the time of the invention and clarify how the claimed subject matter would have been obvious to one possessing that level of skill.

Although of different scope than claim 1, Applicant submits that claim 21 is patentable over Droms in view of Liston for at least similar reasons as discussed above identifying deficiencies in Droms and Liston with regard to independent claim 1. For example, claim 21 recites, *inter alia*:

> A computer-readable medium containing instructions for controlling a processor to detect unauthorized access to a network by:
> ...
> generating a return address corresponding to output of a function applied to said address, said return address corresponding to a used one of a block of addresses;
> ...

Applicant respectfully submits that at least this claim element from independent claim 21 is not discussed or rendered obvious by Droms or Liston, taken alone or in combination, as discussed above. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection for this claim as well.

Although of different scope than claim 1, Applicant submits that claim 30 is patentable over Droms in view of Liston for at least similar reasons as discussed above identifying deficiencies in Droms and Liston with regard to independent claim 1. For example, claim 30 recites, *inter alia*:

> A system for detecting unauthorized access attempts to a network, comprising:
> ...
> means for generating a return address corresponding to output of a function applied to said address, said return address

> corresponding to a used one of a block of addresses, said means for generating including a processor programmed to apply said function to said address;
> ...

Applicant respectfully submits that at least this claim element from independent claim 30 is not discussed or rendered obvious by Droms or Liston, taken alone or in combination, as discussed above. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection for this claim as well.

Although of different scope than claim 1, Applicant submits that claim 39 is patentable over Droms in view of Liston for at least similar reasons as discussed above identifying deficiencies in Droms and Liston with regard to independent claim 1. For example, claim 39 recites, *inter alia*:

> A computer program, disposed on a computer-readable medium, for enabling detection of unauthorized access attempts to a network, said computer program including instructions for causing a processor to:
> ...
> generate a return address corresponding to output of a function applied to said address, said return address corresponding to a used one of a block of addresses;
> ...

Applicant respectfully submits that at least this claim element from independent claim 39 is not discussed or rendered obvious by Droms or Liston, taken alone or in combination, as discussed above. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection for this claim as well.

Furthermore, Applicant submits claims 2-20, 22-29, 31-38, and 40-54, which are directly or indirectly dependent from independent claims 1, 21, 30 and 39 respectively, are also not discussed or rendered obvious by Droms and Liston, as discussed above, nor are the deficiencies identified above with respect to Droms and Liston remedied Hasty, which

discusses IP to MAC address mapping in wireless ad-hoc networks, taken alone or in combination, for at least similar reasons to those discussed above.

Accordingly, Applicant requests withdrawal of this ground of rejections.

**Conclusion**

In summary, Applicant submits that independent claims 1, 21, 30 and 39are directed to statutory subject matter for at least the reasons discussed above. Applicant submits that claims 2-20, 22-29, 31-38 and 40-54, which are directly or indirectly dependent from independent claims 1, 21, 30 and 39 respectively, are also directed to statutory subject matter for at least the reasons discussed above.

As Applicant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicant's silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, ability to combine references, assertions as to patentability of dependent claims) is not a concession by Applicant that such assertions are accurate or such requirements have been met, and Applicant reserves the right to analyze and dispute such in the future. Furthermore, although Applicant has amended claims 1-3, 7-9, 30, 31, 34, 39, 40, 44 and 45 herein, Applicant submits that the originally filed claims are also directed to statutory subject matter. As such, Applicant reserves the right to pursue the originally filed claims in one or more continuation application(s). Accordingly, Applicant respectfully requests reconsideration/further examination of the instant application in view of the foregoing Amendments/Remarks.

## AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 03-1240, Order No. 19161-010.

In the event that an additional extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 03-1240, Order No. 19161-010.

Respectfully submitted,

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